

# AGENDA

## Regulatory Sub Committee

Date: **Tuesday 3 April 2012**

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Time: **2.00 pm**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

Tel: 01432 261885

Email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Sub Committee

## Membership

Councillor BA Durkin  
Councillor JW Hope MBE  
Councillor Brig P Jones CBE

### GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

#### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

#### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

#### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

#### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

## AGENDA

	Pages
<p><b>1. ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.</p>	
<p><b>2. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.</p>	
<p><b>3. NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p><b>4. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>5. APPLICATION FOR A REVIEW OF THE PREMISES LICENCE 'MCCOLLS, 7 THE OVAL, HEREFORD, HR2 7HG.'</b>  To consider an application for a review of the premises licence relating to 'McColls, 7 The Oval, Hereford, HR2 7HG' called by Herefordshire Council Trading Standards previously adjourned at the meeting of the Regulatory Sub-Committee on 13 December 2011.</p>	1 - 10
<b>Background Papers - McColl's - Application Form</b>	11 - 16
<b>Background Papers - McColl's - Emails From Local Ward Member</b>	17 - 20
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## **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

## **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

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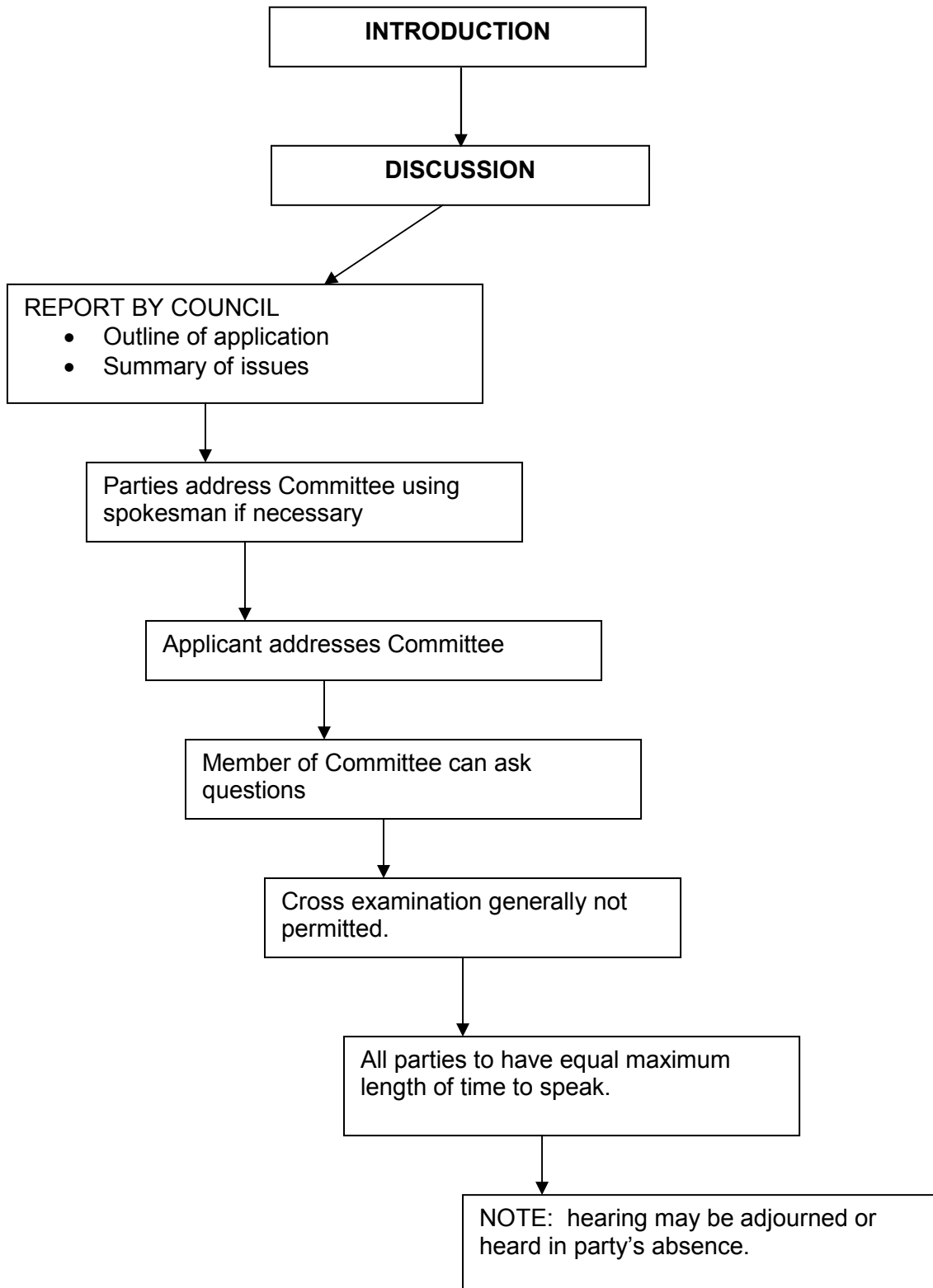
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## LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>3 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<b>REVIEW OF PREMISES LICENCE: MCCOLLS, 7 THE OVAL, HEREFORD. HR2 7HG – LICENSING ACT 2003</b>
<b>PORTFOLIO AREA:</b>	<b>HEALTH AND WELLBEING</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Belmont

### **Purpose**

To consider an application for a review of the premises licence relating to 'McColls, 7 The Oval, Hereford, HR2 7HG' called by Herefordshire Council Trading Standards.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to promote the licensing objectives,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

### **Key Points Summary**

- Third Review of Premises Licence
- Consideration of the application adjourned on 13 December 2011 after 5 conditions were volunteered by the applicant.
- Called following a further underage sale.
- One representation received from a responsible authority.
- One representation received from interested parties.

Further information on the subject of this report is available from  
Fred Spriggs – Licensing Officer 01432 383542

## Options

1 Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

## Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003.

## Introduction and Background

### 3 Background Information

Applicant	<b>Herefordshire Council – Trading Standards</b>	
Premise Licence Holder	<b>Martin McColl Ltd, Martin McColl House, Ashwells Road, Brentwood, Essex, CM15 9ST</b>	
Solicitor	<b>DWF, Liverpool</b>	
Type of application:	Date received:	28 Days consultation
<b>Review</b>	<b>21/10/11</b>	<b>18/11/11</b>

### 4 Previous Committee Hearing

The application for review of the premises licence was first reported to the Regulatory Sub-Committee on 13 December 2011. At that meeting the item was adjourned to enable the applicant a period of time to demonstrate that the conditions that he volunteered to the Committee would address the concerns expressed by the police and trading standards department in respect of the promotion of the licensing objectives of the protection of children

from harm and the prevention of crime and disorder. The conditions that were volunteered were as follows:

1. A personal licence holder must be on the premises at all times when alcohol is sold.
2. Only a personal licence holder shall sell alcohol. Each and every sale must be witnessed at the time by another member of staff. That member of staff must be trained to BIIAB Level 1. Both the personal licence holder and the other member of staff, making the sale, must sign the till receipt at the time prior to the alcohol being handed over. Evidence shall be kept on site of the personal Licence and the BIIAB Qualification of the sellers and shall be made immediately available to an authorised officer (as defined by Section 13 Licensing Act 2003) and an authorised trading standards officer.
3. The premises licence holder must conduct monthly Serve Legal Test Purchases. Records of the visit must be supplied to the Local Authority Licensing Officer within 7 days of the test. The record shall show the product attempt to be purchased, the name of the server, the date and time of attempted sale.
4. The premises shall operate a Challenge 30 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.
5. All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any equivalent training agreed by Herefordshire Council trading standards within one month of commencing employment at the premises. (Where there are existing staff this training shall be completed within one month of this date (13 December 2011). Such training shall be bespoke to McColls, The Oval, Hereford. All staff shall be re-trained six monthly thereafter. Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

## 5 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

Sale by retail of alcohol (off sales):

On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.

On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.

On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

On Good Friday, 8 a.m. to 10.30 p.m.

## 6 **Previous Review**

This licence was first reviewed by the Regulatory Sub-Committee on 4<sup>th</sup> November 2008.

The grounds for that review were: -

The premise has been the subject of eight separate test purchase operations since the start of the Licensing Act in November 2005. On two of these occasions 3 sales have occurred.

The decision of that Committee was: -

That the following additional condition been imposed upon the licence from 4 February 2009:-

- Personal licence holder to be on site at all times during sales of alcohol.

That the following additional conditions be imposed forthwith upon the licence:-

- That the use of 'Challenge 25' is made a condition of all sales made on the premises.
- Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and trading standards officers.
- Prominent signs publicising the age challenge policy to be displayed at the entrance to the premises, at the tills and in all areas where alcohol is being displayed.

The premises licence was further reviewed on 10<sup>th</sup> August 2009.

The grounds for that review were:

The premises has been the subject of a number of test purchase operations involving youths aged 15 and 16 years between August 2005 and November 2008.

A total of 9 test purchase operations have been carried out and during those 3 sales were made.

On that occasion the Committee attached the following condition:

- Two members of staff must endorse each sale of alcohol by signature.

No appeal was lodged with the Magistrates Court in respect of either decision.

## 7 **Summary of Application**

The application for review relates to the following licensing objectives: -

- Prevention of Crime and Disorder
- Protection of Children from harm

## 8 **The grounds for the review are: -**

The premise is a general store situated on the outskirts of Hereford.

The request for this review is based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.

## 9 **The information provided to support this application is: -**

At 1900 hours on Saturday 15<sup>th</sup> October 2011 Herefordshire Council trading standards department, and the West Mercia Constabulary carried out a test purchase operation at the premise.

One(1) 16 year old female, who was 5' 2" tall was sold alcohol (Eight [8] Cans of Blackthorn Cider 4.7% strength) without being challenged concerning her age.

The seller was a personal licence holder who made no challenge regarding the females age.

After the sale when challenged the seller stated that he thought she was over 25.

Herefordshire Council Licensing Policy states that any premises failing a test purchase will be reviewed.

The premises has been the subject of 2 further reviews following test purchases in the past.

On 4th November 2008 the Licensing Committee imposed the following conditions:

- Personal licence holder to be on site at all times during sales of alcohol.
- That the use of 'Challenge 25' is made a condition of all sales made on the premises.
- Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and trading standards officers.
- Prominent signs publicising the age challenge policy to be displayed at the entrance to the premises, at the tills and in all areas where alcohol is being displayed.

On 10<sup>th</sup> August 2009 the Licensing Committee imposed the following condition:

- Two members of staff must endorse each sale of alcohol by signature.

They also suspended the licence for a period of 7 days commencing at 0001 on Tuesday 1 September 2009.

At the time of the operation there were numerous notices displayed within the premises advertising that they operated a 'Challenge 30' policy.

The condition imposed on 10<sup>th</sup> August 2009 that 'Two members of staff must endorse each sale of alcohol by signature' did not take place.

#### 10 **Further Information**

On 8<sup>th</sup> November officers from Herefordshire Council went to the store where a further test purchase operation was carried out. On this occasion a 23 year old purchased four cans of 'Strongbow Cider. Again no challenge was made regarding his age and again two members of staff did not sign the sale off.

The training records were asked for and whilst records were being kept there was no evidence of the training which had been received by staff.

This incident is now the subject of a criminal investigation.

#### 11 **Summary of Representations**

Copies of the representations and suggested conditions can be found within the background papers.

#### 12 **Responsible Authorities**

A representation has been received from the West Mercia Police.

#### 13 **Interested Parties**

One (1) representation has been received from a ward councillor.

### **Key Considerations**

- 14 To consider what action should be taken, if any, to promote the four licensing objectives in accordance with the recommendation.

Guidance issued under Section 182 of the Licensing Act 2003 in respect of Reviews states at paragraph: -

- 11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - **for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;**
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for unlawful gaming and gambling; and
  - for the sale of smuggled tobacco and alcohol.
- 11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. **Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.** We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

The attention of the Committee is drawn to the stated case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

“Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.”

## Community Impact

- 15 It is felt that any decision made will have a minimal impact on the Community.

## Legal Implications

- 16 Schedule 5 Section 8(2) gives a right of appeal to: -
- a) the applicant for the review,

- b) the holder of the premises licence, or
- c) any person who made relevant representation in relation to the application.

17 Section 9 states that any such appeal must be made to a Magistrates Court for the area in which the premises are situated within 21 days of notification of the decision.

## **Consultees**

- 18 Responsible authorities and persons living or with a business interest within the vicinity of the premises.
- 19 A copy of the application was served on the responsible authorities. This was backed up by an email sent to them by the Licensing Authority.
- 20 The notice of review was displayed on the premises prior to the start of the consultation period and was displayed for 28 days. In addition the notice was also displayed at the offices of the Licensing Unit at Bath Street, Hereford over the same period.

## **Appendices**

- 21
  - a. Application Form for Review
  - b. Police Representation
  - c. Interested party representation

## **Background Papers**

**Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.**

## NOTES

### REVIEWS

11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

11.22 'A number of reviews may arise in connection with crime that is not directly connected with licensable activities'. 'Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all'. 'Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them'.

11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

Section 52 (11) A determination under this section does not have effect—

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.



## **Licensing Authority's power to exercise substantive discretionary powers.**

**The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3)  
The British Institute of Inn keeping V Canterbury City Council.**

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; the scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant, who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.



**Application for the review of a premises licence or club premises certificate  
under the Licensing Act 2003**

**TO:**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

**We** Herefordshire Council Trading Standards

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
McColls The Oval	
<b>Post town</b> Hereford	<b>Post code (if known)</b> HR2 7HG
<b>Name of premises licence holder or club holding club premises certificate (if known)</b>	
Martin McColl Ltd	
<b>Number of premises licence or club premises certificate (if known)</b>	
PR00388	

**Part 2 - Applicant details**

I am

**Please tick yes**

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises

- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick yes

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address David Hough Herefordshire Council Trading Standards Council Offices Bath Street Hereford
Telephone number (if any) 01432 260011
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

**Please state the ground(s) for review (please read guidance note 1)**

The premises is a general store situated on the outskirts of Hereford.

The request for this review is based on the licensing objectives regarding the prevention of crime and disorder and the protection of children from harm.

The premise has been the subject the subject of a test purchase operation which it failed.

**Please provide as much information as possible to support the application  
(please read guidance note 2)**

At 1900 hours on Saturday 15<sup>th</sup> October 2011 Herefordshire Council trading standards department, and the West Mercia Constabulary carried out a test purchase operation at the premise.

One(1) 16 year old female, who was 5' 2" tall was sold alcohol (Eight [8] Cans of Blackthorn Cider 4.7% strength) without being challenged concerning her age.

The seller was a personal licence holder who made no challenge regarding the females age.

After the sale when challenged the seller stated that he thought she was over 25.

Herefordshire Council Licensing Policy states that any premises failing a test purchase will be reviewed.

The premises has been the subject of 2 further reviews following test purchases in the past.

On 4th November 2008 the Licensing Committee imposed the following conditions:

- Personal licence holder to be on site at all times during sales of alcohol.
- That the use of 'Challenge 25' is made a condition of all sales made on the premises.
- Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and trading standards officers.
- Prominent signs publicising the age challenge policy to be displayed at the entrance to the premises, at the tills and in all areas where alcohol is being displayed.

On 10<sup>th</sup> August 2009 the Licensing Committee imposed the following condition:

- Two members of staff must endorse each sale of alcohol by signature.

They also suspended the licence for a period of 7 days commencing at 0001 on Tuesday 1 September 2009.

At the time of the operation there were numerous notices displayed within the premises advertising that they operated a 'Challenge 30' policy.

The condition imposed on 10<sup>th</sup> August 2009 that 'Two members of staff must endorse each sale of alcohol by signature' did not take place.



Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

29<sup>th</sup> October 2011

Capacity Trading Standards Officer

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

**Post town**

**Post Code**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



Poole, Ady

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**From:** Poole, Ady  
**Sent:** 11 November 2011 11:49  
**To:** Edwards, Philip (Cllr)  
**Subject:** RE: Belmont Ward Member Response

Hi Cllr Edwards

We have evidence of the failure to comply with the required condition.

Your evidence will support that in relation to witnessing that failure.

Your representation will be accepted and you will be notified of the Committee Hearing date in due course.

Thank you

Ady

Adrienne Poole  
Licensing Assistant,  
Environmental Health & Trading Standards,  
People's Services Directorate - Health & Wellbeing Service,  
Herefordshire Council, Bath Street Offices, Bath Street,  
Hereford.

HR1 2ZF

Tel: 01432 260105

Fax: 01432 383142

email: apoole@herefordshire.gov.uk

Council's Homepage [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk)

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**From:** Edwards, Philip (Cllr)  
**Sent:** 11 November 2011 09:55  
**To:** Poole, Ady  
**Subject:** RE: Belmont Ward Member Response

Ady,

I have no specific evidence apart from McColls being located right in the middle of Belmont Ward so have to rely on the General Statements made other than that I have noted that the outlet is often managed by one person so have some difficulty in understanding how McColls can comply with the 'two signature rule' as set out in Mr Spriggs response.

Cllr Phil Edwards  
Belmont Ward  
Herefordshire Council

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**From:** Poole, Ady  
**Sent:** 11 November 2011 09:42  
**To:** Edwards, Philip (Cllr)  
**Subject:** RE: Belmont Ward Member Response

Dear Councillor Edwards

I have spoken with Mr Spriggs regarding your response to the Review of the premises licence for McColls, The Oval and he has asked me to contact you.

He has to consider whether a representation is a 'relevant representation in that is it about the likely effect of the grant of the premises licence on the promotion of the licensing objectives'.

The statements you have made are quite general.

A recent High Court case requires that any representation must be supported by some real evidence and that that evidence relates to the premises in question.

Do you have any information or evidence that the occurrences you describe are attributable or connected to McColls in particular which can be added to your representations to ensure that they can be accepted as relevant?

Thank you

Ady

**Adrienne Poole**

Licensing Assistant,  
Environmental Health & Trading Standards,  
People's Services Directorate - Health & Wellbeing Service,  
Herefordshire Council, Bath Street Offices, Bath Street,  
Hereford.

HR1 2ZF

Tel: 01432 260105

Fax: 01432 383142

email: [apoole@herefordshire.gov.uk](mailto:apoole@herefordshire.gov.uk)

Council's Homepage [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk)

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**From:** Spriggs, Fred  
**Sent:** 11 November 2011 09:21  
**To:** Poole, Ady  
**Subject:** FW: Belmont Ward Member Response

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**From:** Edwards, Philip (Cllr)  
**Sent:** 10 November 2011 23:33  
**To:** Spriggs, Fred  
**Cc:** Bridges, Adrian (Cllr); Powell, Glenda (Cllr); [belmontrural@yahoo.co.uk](mailto:belmontrural@yahoo.co.uk); [clerk@herefordcitycouncil.gov.uk](mailto:clerk@herefordcitycouncil.gov.uk)  
**Subject:** Belmont Ward Member Response

Dear Mr Spriggs,

Please find my Belmont Ward Response comments to the Licence Review taking place regards McColls Outlet at the Oval, Belmont.

Thank you for taking the time to call & explain why this review is being undertaken & supplying a copy documenting relevant information.

Regards Phil

*Cllr Phil Edwards  
Belmont Ward  
Herefordshire Council*

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From: [Name] (mailto:[Email])  
Sent: 10/10/2011 10:11 AM  
To: [Name]  
Cc: [Name] (mailto:[Email]); [Name] (mailto:[Email])  
Subject: [Subject]

Dear [Name],  
Please find my feedback on your response to the survey regarding the [Subject] at the [Location].  
Thank you for taking the time to call & explain why the review is being undertaken & supplying a copy of the relevant information.

Regards,  
[Name]  
[Title]  
[Organization]  
[Address]  
[City]  
[Country]  
[Postcode]  
[Phone Number]  
[Email Address]  
[Website]  
[Social Media Links]  
[Additional Contact Information]

Poole, Ady

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**From:** Mooney, James [james.mooney@westmercia.pnn.police.uk]  
**Sent:** 15 November 2011 08:46  
**To:** Licensing  
**Cc:** Spriggs, Fred; Hough, David  
**Subject:** McColls, The Oval Hereford

**NOT PROTECTIVELY MARKED**

West Mercia Police have been made aware of a review application regarding **McColls, The Oval, Hereford**. This application was submitted by Herefordshire Trading Standards as a result of a under age test purchase operation failure on 15 October 2011. In addition West Mercia Police are aware of a further test purchase failure on 09 November 2011, where a sale was made to a person under the age of 25, therefore breaching the conditions attached to the premises licence.

West Mercia Police are aware that this premises were subject to previous test purchase failures in 2008 and 2009, which resulted in a similar review application and ended with additional conditions applied to the premises licence in order to address the licensing objectives of the prevent of crime and disorder and the protection of children from harm.

West Mercia Police are of the opinion that the premises licence holder - if applicable - and/or the person who undertook the sale of alcohol should be subject to a criminal prosecution for the offences disclosed. This prosecution is to be lead by the responsible authority who submitted the review application.

West Mercia Police are also of the opinion that the premises licence should be revoked by the Licensing Authority due to the seriousness of the matters subject of this review and the previous failures that have occurred.

However if the process of revoking the premises licence is not accepted or pursued, West Mercia Police are of a view that the premises should be subject to more stringent licence conditions. Therefore West Mercia Police submit the following representations which are in our opinion necessary, proportionate, achievable and enforceable in order to promote the licensing objectives.

1. **A Personal licence Holder shall be on duty within the licensed area of the premises at all times when the premises operate for the sale**

**of alcohol.**

2. **All sales of alcohol must be authorised by a personal licence holder and must be witnessed by another member of staff of at least 18 years of age. This member of staff should be trained as indicated at point '3' below**

3. **All staff engaged in the sale of alcohol to be trained in Responsible Alcohol Retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Trading Standards. (All existing staff shall be trained within two weeks of the date that this condition appears on this licence. All new staff shall be trained within two weeks of taking up employment. All staff shall be re-trained six monthly thereafter. Training records shall be kept on the premises which shall show the name of the training course attended, the date of the training, the name of the person undertaking**

the training and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

4. The premises shall operate a **Challenge 30 Policy**. Such policy shall be written down and kept at the premises. The policy shall be

produced on demand by an authorised person' (as defined by Section 13 of the Licensing Act 2003) or police. Prominent, clear and legible

signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any area

advertising the scheme operated.

Whilst this is a Herefordshire Trading Standards lead review application, West Mercia Police totally support the review application submitted and

are of an opinion that the view stated in this submission and the representations made are necessary to promote the licensing objectives.

Regards

Jim Mooney  
Police Licensing Officer - South Hub  
Territorial Policing Unit - Herefordshire  
West Mercia Police  
01432 347102 (direct line)  
07792 366 462 (work)  
[herefordandworcesterlicensing@westmercia.pnn.police.uk](mailto:herefordandworcesterlicensing@westmercia.pnn.police.uk)

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Thank you for your co-operation.

West Mercia Police 0300 333 3000

**McColls Convenience Store – 7 The Oval, Hereford**

Police visits between 13/12/2011 and 23/03/2012 – total visits recorded = 14

<b>Date</b>	<b>Time</b>	<b>Comment</b>
19/12/11	1200	General overall comment from officers is that when they have visited the premises to 'check the process' or to undertake other policing matters, the age challenges are occurring and the necessary PLH authorities are taking place. On a number of occasions officers have witnessed the refusal of an alcohol sale because no identity document can be produced.
28/12/11	1230	
01/01/12	1200	
06/01/12	1930	
06/01/12	2100	
07/01/12	1830	
31/01/12	1930	
03/02/12	2115	
04/02/12	2045	
09/02/12	1800	
10/02/12	1500	
11/02/12	1600	
24/02/12	0800	
25/02/12	1930	

Jim Mooney  
Police Licensing Officer  
23/03/12

